

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

MFA.No. 411 of 2000

OPMV.3736/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE

APPELLANT: PETITIONER

M. CHOYIKUTTY, S/O. SWAMY, MANHAKATTU HOUSE,
OLAVANNA P.O., THONDILAKADAVE, KOZHIKODE DIST.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1. M/S. DURGA INVESTMENTS LTD., NO. 805, MOUNT,
OPP. LIC BUILDING, MADRAS-2.
2. M.P. ABDUL MAJEED, S/O. ABDULLA, KALATHINGAL HOUSE,
KOZHNHIL, KOOTILANGADI (PO), MALAPPURAM DIST.
3. THE ORIENTAL INSURANCE COMPANY LTD., C.B.O.NO. 7,
II FLOOR, 669, ANNA SALAI, KAMALA ARCODE, MADRAS.

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION
ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M. Ramachandran & S. Siri Jagan, J J.

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Dated this, the 2nd February, 2007.

J U D G M E N T

Siri Jagan, J.

This appeal is at the instance of the claimant in O.P(MV) No. 3736/1993 on the files of the M.A.C.T., Kozhikode in which the appellant is seeking enhanced compensation. The appellant was aged 43 at the time of the accident and was a spinner. He suffered injuries of fracture base of 5th metacarpal, fracture scaphoid, and traumatic osteoarthritis right shoulder. The Tribunal awarded a total compensation of Rs. 17,250/-. The same is under challenge in this appeal on the ground that the compensation awarded is not commensurate with the injuries sustained by the appellant.

2. Towards pain and suffering, an amount of Rs. 12,000/- was awarded. However, on a finding that there was no evidence to show that the appellant had suffered any permanent disability, no compensation was awarded in respect of the same. The appellant submits that the amount computed under the head of pain and suffering is too low and the Tribunal went wrong in not awarding any amount towards loss of earning power.

3. Admittedly, the appellant was hospitalised for a period of 22 days. Considering the nature of the injuries and the period of hospitalisation, we are not satisfied that the amount of Rs. 12,000/- awarded by the Tribunal towards pain and suffering can be termed as insufficient. Therefore, we are not inclined to interfere with the compensation awarded under that head. In the absence of any evidence whatsoever regarding any permanent disability on account of the injuries sustained by the appellant, the appellant cannot claim any compensation under that head. That being so, we do not find any merit in the contention of the appellant that the Tribunal went wrong in not awarding any compensation under the said head.

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In view of our above findings, we do not find any infirmity in the award of the Tribunal. Accordingly, the appeal is dismissed.

Sd/- M. Ramachandran, Judge.

Sd/- S. Siri Jagan, Judge.

Tds/

[True copy]

P.S to Judge.

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M. Ramachandran & S. Siri Jagan, J J.

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M.F.A No. 411 of 2000

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J U D G M E N T

2nd February, 2007.